

EXHIBIT 7

ALLEN ROBINSON,)	
)	
<i>Petitioner,</i>)	
)	
v.)	No. 09 CR 6422
)	
STATE OF ILLINOIS,)	
)	Hon. Mary M. Brosnahan,
<i>Respondent.</i>)	presiding.
)	

Robinson 000001

1 STATE OF ILLINOIS)
) SS.
2 COUNTY OF COOK)

3 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT - CRIMINAL DIVISION

4 THE PEOPLE OF THE STATE OF)
5 ILLINOIS,)
)
6 Plaintiff,)
)
7 vs.) No. 2009-CR-62440-01
)
8 ALLEN ROBINSON,)
)
9 Defendant.)

10 REPORT OF PROCEEDINGS had of the
11 above-entitled cause, before the HONORABLE MARY
12 MARGARET BROSNAHAN, one of the judges of said
13 court, on the 2nd day of May, A.D., 2022.

14 APPEARANCES:

15 HON. KIMBERLY M. FOXX,
State's Attorney of Cook County, by:
16 MS. LINDA WALLS,
Assistant State's Attorney,
17 appeared on behalf of the People;

18
MR. PATRICK BLEGEN,
19 MS. JODY GARVEY,
Attorneys at law,
20 appeared on behalf of the Defendant.

21

22

23 MELISSA K. ANDERKO
Official Court Reporter
24 Criminal Division
CSR: #084-004845

1 THE COURT: Mr. Robinson.

2 THE SHERIFF: Where would you like him?

3 THE COURT: Can we unshackle him, unless there is
4 some security concerns? We had him unshackled last
5 week, so let's do that. And then we'll have him seated
6 over at counsel table with his attorneys, please.

7 All right. Thank you. We've got Mr. Allen
8 Robinson present in court in the custody of the
9 Illinois Department of Corrections. Counsel, for the
10 defense, may we get your names for the record, please.

11 MR. BLEGEN: Judge, Patrick Blegen, B-L-E-G-E-N,
12 and Jody Garvey, G-A-R-V-E-Y, for Mr. Robinson.

13 THE COURT: All right. Thank you. And on behalf
14 of the State?

15 MS. WALLS: Linda Walls, W-A-L-L-S.

16 THE COURT: All right. Thank you.

17 This case comes on the Court's call for the
18 Court's ruling on the third stage post conviction
19 hearing for the allegations of ineffective assistance
20 of counsel, in particular, were uncontested by the
21 State.

22 I do want to go back to the last court date
23 which was April 28th of 2022 where I did ask the State
24 to make a record of what has changed with the evidence

1 in this case since the Conviction Integrity Unit or the
2 CIU unit returned the case to the post conviction unit
3 after 22 months wherein it's the Court's supposition
4 that they declined to find the actual innocence wherein
5 they would -- proceeded to ask the Court to dispense
6 the third stage hearings, to give a factual basis for
7 that.

8 While it is accurate that this hearing has
9 been limited to the claims of ineffective assistance of
10 counsel, again, to put the Court's request in the
11 proper frame of reference, we did have issues -- an
12 issue's conference prior to proceeding with this third
13 stage hearing with both the State and the defense, and
14 the State advanced the position that they now believe
15 that the defendant, Mr. Robinson, did not commit this
16 crime and that they anticipate dismissing the case upon
17 the granting of new trial.

18 So it's based upon that information, that the
19 Court engaged in that colloquy with the State even
20 though the issue with me was squarely ineffective
21 assistance of counsel at that point in time, hence, the
22 questions that -- that explains the questions to the
23 State during that point. How the position changed I do
24 believe that transparency is, of course, very important

1 in the judicial process.

2 But regarding the ineffective assistance of
3 counsel claims, generally the defense attorney is a
4 witness for the State or at least is part of the
5 process where the State then evaluates what's told of
6 them and decides how they are going to proceed with
7 respect to a post conviction where ineffective
8 assistance of counsel is alleged.

9 Generally that defense attorney in many cases
10 acts as a witness for the State explaining the reason
11 for the trial decisions with the Court of the third
12 stage hearing. The Court is then free to accept any
13 explanations or arguments or reject them outright and
14 find ineffective assistance of counsel, what's a trial
15 strategy, and what's ineffective assistance of counsel.
16 It's always a case-by-case decision.

17 Here based on the uncontested nature of this
18 third stage proceeding, the State's represented that
19 the defense attorney refused to return calls or
20 participate; so therefore, there is absolutely no
21 credibility determination -- or factual determination
22 to be made other than what's in the cold record along
23 with the testimony and the stipulations that have been
24 entered into evidence at the third stage hearing.

1 Under the Strickland case for ineffective
2 assistance of counsel, the Court has to determine,
3 number one, if the defendant's representation by the
4 attorney fell below the legal standard; and second, but
5 for that ineffective assistance of counsel, would the
6 outcome have been different.

7 With respect to the allegation that an alibi
8 was not presented, I do know that on February 15th of
9 2011 that the defense attorney indicated in court that
10 there were no affirmative defenses in the case and
11 alibis in terms of defense, that there was a statement
12 made on the record according to my notes on common law
13 record. Both sides indicated to me at that time that
14 there were no complicated motions in limine, and I find
15 that to be important later on in my analysis.

16 Based on the testimony of the defendant's
17 mother and the work schedules from her job that were
18 obtained before trial without the testimony of the
19 attorney, I'm really in the dark as to why the alibi
20 was not presented. There certainly may be reasons why
21 an attorney may not proceed with an alibi defense such
22 as problems known to the attorney after interviewing
23 witnesses and assessing the case. Also if an attorney
24 has knowledge that an alibi is false, they are

1 obviously precluded from putting on any such evidence.
2 However, I -- I don't have any information about any of
3 that.

4 In this case with this third stage
5 uncontested proceeding, there's no representations
6 being made explaining the attorney's decision or even
7 frankly his knowledge of an alibi whether or not an
8 alibi existed. I know he said in court there was no
9 affirmative defense. Beyond that, I just would be
10 guessing.

11 Second, and in my view the most persuasive
12 ineffective assistance of counsel argument, has to do
13 with the purported letter written by Lamarius
14 (phonetic) Robinson or I should say letters plural, and
15 the purported third party statements that were admitted
16 into evidence via an affidavit and via a live witness
17 during this third stage hearing wherein Lamarius
18 Robinson admitting to -- admitted of committing this
19 crime.

20 There were two separate exhibits that were
21 presented to the Court that contained what are three
22 letters written by Lamarius Robinson according to the
23 defense theory. There's also -- Lamarius was clearly
24 present for the trial. I found that he had a Fifth

1 Amendment right even under accountability. He
2 ultimately declined to testify. But on the stand did
3 not admit to writing the letters, but I believe
4 admitted to signing the letters. We now know the DNA
5 is on Exhibit I that was tendered by the defense. And
6 one of the main allegations for ineffective assistance
7 of counsel is that the defense did not in any way,
8 shape, or form attempt to admit in the theory that
9 somebody other than the defendant committed the crime,
10 and that's under the Chambers case.

11 One of the things that was presented during
12 this hearing is there was a letter attached to the
13 affidavit of Quinton Davis which is Exhibit No. C, so
14 the allegation is that Quinton Davis knows the writing
15 of Lamarius Robinson, and he would indicate that the
16 person that wrote Exhibit C was Lamarius Robinson.

17 And I certainly am not a handwriting expert.
18 And, again, that would be for litigation, et cetera, in
19 what I believe should have been an extensive motion in
20 limine filed prior to the trial whatsoever so that a
21 Chambers analysis could have been conducted; however, I
22 will note that the letter that purportedly Quinton
23 Davis could identify as that of Lamarius Robinson is
24 very flowing. It's in cursive. It's very neat. And

1 then under Exhibit No. I there are two separate letters
2 where it's printed. It's very neat, but it's printed.

3 And, again, in my view, I don't see a
4 connection between the cursive and the two written
5 letters in any way, shape, or form; however, again,
6 that perhaps is for a handwriting expert at some point
7 to opine on. But I think the -- an average person
8 looking at Exhibit No. C and looking at the two
9 letters -- handwritten letters under Exhibit No. I,
10 both under the I, the Lamarius Robinson, they're both
11 printed. I can see the correlation, again, an
12 untrained eye that I have, but I don't see anything
13 that relates to the print and cursive.

14 I will note that the stipulation to Quinton
15 Davis's testimony and the finding on -- noted the
16 finding is reliability on an unrelated case that was
17 proffered. I do find that the fact that he previously
18 signed a false affidavit in another case while in jail
19 is not part of that stipulation. That was learned
20 during an issues discussion prior to proceeding.

21 The summary of the evidence on this
22 ineffective assistance of counsel claim for failing to
23 introduce evidence that Lamarius Robinson was the
24 alternate suspect, I believe that is -- squarely fits

1 within ineffective assistance of counsel. There should
2 have been on such a significant and important issue a
3 pretrial motion that was litigated.

4 At the very least, I did give the defense an
5 opportunity to formulate a theory or a plan if he
6 attempted or wanted to get into evidence the letter
7 from Lamarius when Lamarius refused to testify. There
8 was no mention of a Chambers hearing, which the Court
9 didn't do. There were two separate witnesses that
10 testified very close in time to the murder itself.
11 Lamarius Robinson made statements as he himself is the
12 one who committed the murder.

13 I can't opine without having a full hearing
14 with input from both sides as to what the outcome would
15 have been, but I certainly can opine that not having a
16 hearing prior to proceeding or finishing up with the
17 trial was ineffective assistance of counsel.

18 So based upon that, based upon what was
19 presented in court, I am granting the new trial based
20 on the ineffective assistance of counsel.

21 What does the State want to do at this time?

22 MS. WALLS: Judge, I am just awaiting confirmation
23 from the state's attorney as the ultimate disposition.
24 We reached out --

1 THE COURT: We are going to pass it. You want to
2 pass it today?

3 MS. WALLS: No. They've indicated to me it's not
4 going to -- I am not going to get a decision today.
5 They suggested Monday. If that works for the Court, we
6 can do it first thing in the morning.

7 THE COURT: Sure. Does that work for the defense?

8 MS. GARVEY: I can be here, Judge.

9 THE COURT: So the 9th then?

10 MS. WALLS: Yes, please.

11 THE COURT: By agreement 5/9/22. You want to say
12 9:30 or make it 11:00? You tell me what time.

13 MS. WALLS: I can do 9:30.

14 MS. GARVEY: 9:30 is fine.

15 THE COURT: All right. By agreement May 9th of
16 2022, 9:30 a.m. That'll be for State position.

17 (The above-entitled cause was
18 continued to May 9th, 2022.)

19

20

21

22

23

24

1 STATE OF ILLINOIS)
2) SS.
3 COUNTY OF COOK)

4

5 I, MELISSA K. ANDERKO, an Official Court
6 Reporter within and for the Circuit Court of Cook
7 County, Criminal Division, do hereby certify that I
8 have reported in shorthand in the report of
9 proceedings had in the above-entitled cause; that I
10 thereafter caused the foregoing to be transcribed
11 into typewriting, which I hereby certify is a true
12 and accurate transcript of the proceedings had
13 before the Honorable MARY MARGARET BROSNAN, judge
14 of said court.

15

16

17

18 -----
19 MELISSA K. ANDERKO
20 Official Shorthand Reporter
21 Circuit Court of Cook County
22 County Department - Criminal
23 Division
24 Certification No. 084-004845

25

26

27

28 Dated this 8th day of
29 August, 2022.